

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

|                             |   |                    |
|-----------------------------|---|--------------------|
| EZEKIEL DAVIS,              | ) |                    |
|                             | ) |                    |
| Plaintiff,                  | ) |                    |
| vs.                         | ) | NO. CIV-13-1174-HE |
|                             | ) |                    |
| CORRECTIONS CORPORATION     | ) |                    |
| OF AMERICA, <i>et al.</i> , | ) |                    |
|                             | ) |                    |
| Defendants.                 | ) |                    |

**ORDER**

Plaintiff Ezekiel Davis, appearing *pro se*, filed this action pursuant to 42 U.S.C. §1983, alleging violations of his constitutional rights. Consistent with 28 U.S.C. §636(b)(1)(B) and (C), the matter has been referred to Magistrate Judge Charles B. Goodwin, who has issued a Report and Recommendation concluding that plaintiff's motion for a preliminary injunction [Doc. #2] and his request for a hearing should be denied. The magistrate judge also concluded that plaintiff has not stated plausible claims under 42 U.S.C. § 1983 for ongoing violations of his Eighth Amendment rights through the denial of medical care. Plaintiff has filed an objection to the Report and Recommendation.


Having conducted the required *de novo* review, the court agrees with Magistrate Judge Goodwin's thorough analysis of plaintiff's motion for preliminary injunction and his complaint and adopts the Report and Recommendation. Plaintiff has not demonstrated he is entitled to injunctive relief in the form of (1) an order for outside or specialized medical care or (2) his transfer to a different facility. Plaintiff also has not pleaded a violation of his Eighth Amendment rights. While the court doubts plaintiff can amend his complaint and state facts sufficient to demonstrate defendants were deliberately indifferent to his serious

medical needs,<sup>1</sup> he will be given the opportunity to do so.

Accordingly, plaintiff's motion for injunctive relief [Doc. #2] and his request for a hearing are **DENIED**. Plaintiff's claims alleging ongoing violations of his Eighth Amendment rights are dismissed without prejudice. Plaintiff is granted leave to file an amended complaint by **October 13, 2014**, if he can correct the factual deficiencies identified by the magistrate judge in his Report and Recommendation.

**IT IS SO ORDERED.**

Dated this 22nd day of September, 2014.



JOE HEATON  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>Although his intent is not altogether clear, in his objection plaintiff states he “understand[s] sua sponte dismissal of the Eighth Amendment medical claim.” Doc. #93, p. 4.